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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/529,477

03/28/2005

Hiromichi Minakawa

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10/15/2008

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ALEXANDRIA, VA 22314

EXAMINER

LEFF, STEVEN N

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

10/15/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/529,477	Applicant(s) MINAKAWA, HIROMICHI	
	Examiner STEVEN LEFF	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/16/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/16/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
- Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prasad et al. (WO 00/65937) in view of Hack et al. (3480447).

With respect to claim 1 Prasad et al. teach a method for microwave cooking (page 4 line 16). More specifically, Prasad et al. teach preparing a seasoning (page 4 line 8) comprising at least one organic acid specifically, citric acid (page 16 line 18), a starch (page 17 line 27), a thermosetting protein (page 18 line 1) and an edible fat and oil (page 18 line 19, page 9 lines 14-22), applying the seasoning to a raw meat or raw fish (page 14 lines 16-18), and subjecting the seasoned product to microwave heating (page 4 line 16). Prasad et al. continue by teaching that the seasoning further comprises the reaction of amino acids and reduced sugars during heating and prior to application to the meat product, where Prasad et al. positively teaches heating prior to application to the meat product on page 8 paragraph 2 for producing a component which enhances browning (pg. 8 par. 2).

However Prasad et al. does not specifically teach the addition of melanoidin to the composition.

Hack et al. teach a seasoning with a flavor similar to meat. More specifically Hack et al. teach the process comprises reacting together amino acids, reducing sugars, and a sulfonic acid. It is known that upon heating amino acids with reducing sugars the Maillard reaction (also called the "browning reaction") takes place, whereby not only brown colored melanoidins are formed, but, depending upon the selection of the kind and quantity of reactants and the reaction conditions, various flavors (e.g. malt, caramel, chocolate, bread, potato) can be produced (col. 1 lines 26-34). Preferably, the reaction is conducted at a temperature between about 60 and 110° C. and at a pH within the range of about 4 to about 7. The reaction should be conducted to completion, that is, until all of the reducing sugar component has been reacted (col. 2 lines 17-21).

Thus Prasad et al. teach a seasoning which is comprises a component formed by the reaction of amino acids and reduced sugars during heating in order to further promote browning at an increased rate (pg. 8 par. 2-3, par. 9 par. 1), in addition to teaching that the amino acid could be wheat gluten (pg. 7 third to last line), and since Hack et al. teach that it is known that upon heating amino acids, specifically wheat gluten (col. 1 line 66) with reducing sugars the Maillard reaction (also called the "browning reaction") takes place, whereby brown colored melanoidins are formed (col. 1 lines 29-34), one of ordinary skill in the art would have been motivated to combine the teachings of Prasad et al. and Hack et al. in order to promote browning of the meat as is desired by Prasad et al. (pg. 8 par. 2-3, par. 9 par. 1) and further in order to provide a seasoning which greatly enhances any meat flavors which are already present in the food as is taught by Hack et al. (col. 2 lines 36-37).

Therefore it would have been obvious to one of ordinary skill in the art to teach the presence of melanoidin in the composition since all the claimed elements were known in the prior art and one skilled in the art could have taught the composition including melanoidin with no change in its respective functions, thus yielding predictable results to one of ordinary skill in the art at the time of the invention where combining the two methods, each of which is taught by the prior art to be useful for the same purpose of producing a meat seasoning, flows logically from their having been individually taught in the prior art (see MPEP 2144.06) for promoting browning and enhancing meat flavor.

Response to Arguments

In response to applicant's arguments against the references individually it is noted that although Prasad et al. does not specifically teach melanoidin as a component in the composition, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN LEFF whose telephone number is (571)272-6527. The examiner can normally be reached on Mon-Fri 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on (571) 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Drew E Becker/

Primary Examiner, Art Unit 1794

/Steven Leff/

Examiner, Art Unit 1794